

By the Decision of 24 December 2020 No. 2867-O-P the Constitutional Court of the Russian Federation gave an official interpretation to para. 1 of the operative part of the Judgement of the Constitutional Court of 27 March 2020 No. 8-II.

In this Judgement, the Constitutional Court recognised paragraph 1 of Article 23 of the Federal Law of 15 July 1995 No. 101-ΦЗ "On International Treaties of the Russian Federation" in the part that allows temporary application until the entry into force of an international treaty of the Russian Federation (or a part of an international treaty) affecting the rights, freedoms and duties of a person and a citizen, and at the same time establishing other rules than those provided by the law not contradicting the Constitution of the Russian Federation, since the provision contained therein does not imply the possibility of applying such an international treaty (or a part of an international treaty) in the Russian Federation without its official publication.

With the Decision of 24 December 2020, the Constitutional Court clarified the revealed constitutional and legal meaning of paragraph 1 of Article 23 of this Federal Law in the current system of legal regulation of the Russian Federation, including in conjunction with paragraph 2 of the same Article and Article 10 of the Federal Law "On Foreign Investments in the Russian Federation" providing that:

It does not allow temporary application of the provisions of an international treaty of the Russian Federation, which provide for the resolution by international arbitration of disputes between the Russian Federation and foreign investors arising in connection with their investments and entrepreneurial activities on the territory of the Russian Federation, even if this international treaty was officially published, without the adoption of a federal law on its ratification;

It does not imply that the consent of the Government of the Russian Federation to the provisional application of an international treaty of the Russian Federation, agreed upon signing, applies to the provisions of this international treaty providing for the transfer of disputes between the Russian Federation and foreign investors to international arbitration.